

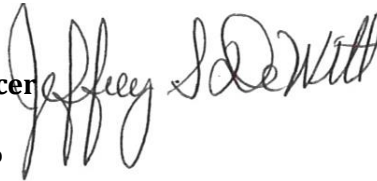
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: November 28, 2016

SUBJECT: Fiscal Impact Statement – Fair Criminal Record Screening for Housing Act of 2016

REFERENCE: Bill 21-706, Committee Print as shared with the Office of Revenue Analysis on November 18, 2016

Conclusion

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The bill is estimated to cost \$344,000 in fiscal year 2017 and \$1.8 million over the course of the four-year financial plan.

Background

The bill prohibits¹ housing providers² from considering the previous arrest history of an applicant³ if the arrest did not result in conviction. The bill would prohibit housing providers from asking applicants or requiring disclosure of a criminal conviction prior to making a conditional housing offer. Housing providers must disclose, in writing, to every applicant the policy and screening criteria used in deciding whether to rent or lease to an applicant with a criminal background. Following a conditional offer to rent or lease real property to an applicant, the housing provider may ask an applicant about prior convictions that occurred over the past seven years.

¹ By amending The Vital Records Act of 1981, effective October 8, 1981 (D.C. Law 4-34; D.C. Official Code § 7-201 et seq.).

² Housing providers include a landlord, an owner, lessor, sublessor, assignee, or their agent, or any other person receiving or entitled to receive rents or benefits for the use or occupancy of any rental unit within a housing accommodation within the District.

³ Applicants are any person considered for, who requests to be considered for, or who intends to request to be considered for, tenancy within a housing accommodation.

A housing provider may withdraw a conditional offer if an applicant is found to have a criminal conviction or pending criminal accusation and the housing provider determines that the withdrawal achieves a substantial, legitimate, nondiscriminatory interest.⁴

If a conditional offer is withdrawn or an adverse action was taken against an applicant, the applicant may request, within twenty days of a withdrawal, a copy of the information used to review the applicant, written notification for the reason of withdrawal, and a notice that advises an applicant of his or her right to file a complaint with the Office of Human Rights (OHR). The housing provider must provide the information within ten days after the receipt of a request.

The bill allows an applicant to file an administrative complaint⁵ with OHR if the applicant believes that a housing provider is in violation of provisions in the bill. If OHR finds that a housing provider has violated the requirements of the bill, OHR must fine the housing provider between \$1,000 and \$10,000 depending on the number of rental units supplied by the housing provider. If OHR finds that a housing provider has violated the provisions in the bill twice in one year, OHR will double the fine amount. OHR will award half of the revenue generated by these fines to the complainant and half to the District of Columbia.

OHR must submit an annual report to the Council on the requirements in the bill including the number of complaints, number of investigations, an evaluation of all complaints, demographic information of complaints, and business characteristics of housing providers.

Within 120 days after the enactment of the bill, OHR must develop a public education curriculum to train housing providers on the requirements in the bill.

The bill does not apply to housing with under three rental units where the owner maintains and occupies one of the living quarters as a resident. The bill also exempts housing accommodations where federal law or District law requires the consideration of applicant's criminal history.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The bill is estimated to cost \$344,000 in fiscal year 2017 and \$1.8 million over the course of the four-year financial plan.

The protections provided by the bill to persons with past convictions are expected to significantly increase the number of cases filed with OHR. OHR would have to docket, investigate, and make a determination on each new case. OHR requires five additional employees to implement the bill at a cost of \$334,000 in fiscal year 2017 and \$1.8 million over the course of the four-year financial plan period.

⁴ Interest must be reasonable in light of the nature of the criminal offense, the severity of the criminal offense, the age of the applicant at the time of the offense, the time that elapsed since the criminal offense, rehabilitation efforts, the degree of the offense, and whether the offense occurred in connection with a property leased by an applicant.

⁵ In accordance with the procedures set forth in Title III of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38, D.C. Official Code § 2-1403.01 et seq.).

The Honorable Phil Mendelson

FIS: Bill 21-706, "Fair Criminal Record Screening for Housing Act of 2016," Committee Print as shared with the Office of Revenue Analysis on November 18, 2016.

Additionally, OHR requires non-personnel service funding to purchase supplies and materials to conduct training sessions on the requirements in the bill. OHR needs an additional \$10,000 in fiscal year 2017 and \$30,000 over the course of the four-year financial plan to complete trainings.

Fines issued against housing providers may generate a small amount of revenue. At this time, we are unable to estimate the number of complaints that will generate revenue.

Fair Criminal Record Screening for Housing Act of 2016					
Projected Fiscal Impact for Bill 21-706					
Fiscal Impact	FY 2017	FY 2018	FY 2019	FY 2020	Total
Salary and Fringe ⁽¹⁾⁽²⁾	\$333,931	\$458,598	\$472,356	\$486,527	\$1,751,412
Training Materials	\$10,000	\$10,000	\$5,000	\$5,000	\$30,000
Total Fiscal Impact	\$343,931	\$468,598	\$477,356	\$491,527	\$1,781,412

Table Notes:

1. Assumes two Grade-11, Step-5 and three Grade-12, Step-5 FTEs and a fringe rate of 21.8 percent. Adjusted by 3 percent annually to account for inflation.
2. Assumes FTE start date of January 2, 2017.